

Message Text

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ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 OPIC-03 FEA-01 ERDA-05 AID-05

CEA-01 CIAE-00 CIEP-01 COME-00 DODE-00 FPC-01 H-02

INR-07 INT-05 L-03 NSAE-00 NSC-05 OMB-01 PM-04

USIA-06 SAM-01 OES-06 SP-02 SS-15 STR-04 TRSE-00

ACDA-07 /099 W

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R 131540Z OCT 76

FM AMEMBASSY CARACAS

TO SECSTATE WASHDC 5125

C O N F I D E N T I A L CARACAS 12121

E.O. 11652: GDS

TAGS: EINV, ENRG, VE

SUBJECT: COMPTROLLER GENERAL'S BACK TAX CLAIM

REF: CARACAS 11144

1. SUMMARY-AMBASSADOR MET WITH MINISTER OF MINES HERNANDEZ TO ASSESS GOV VIEWS ON BACK TAX CLAIM. MINISTER HERNANDEZ SAID GOV PRIMARILY INTERESTED IN MOVING CASE THROUGH THE COURTS TO A QUICK CONCLUSION, AND THAT TWO MAJOR POLITICAL PARTIES HAVE AGREED BETWEEN THEMSELVES TO FACILITATE PROGRESS OF CASE. HE MAINTAINED THAT COMPTROLLER GENERAL'S CASE HAS WEAK LEGAL BASIS END SUMMARY.

2. AMBASSADOR, ACCOMPANIED BY PETOFF, CALLED ON MINISTER OF MINES AND HYDROCARBONS VALENTIN HERNANDEZ SEPT. 29 TO ASSESS GOV ATTITUDES ON REVIVED BACK TAX CLAIM BY COMPTROLLER GENERAL. MINISTER HERNANDEZ SAID THAT CLAIM WAS OF SERIOUS CONCERN BOTH TO MINISTRY AND TO PRESIDENT PEREZ. HE EXPLAINED THAT ORIGINAL CLAIM HAD COME TO ATTENTION OF PEREZ ADMINISTRATION ONLY AFTER IT WAS TOO LATE TO STOP IT, AND THAT NEW COMPTROLLER GENERAL HAD
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NO CHOICE BUT TO DISQUALIFY HIMSELF FROM ACTING ON CASE

DUE TO HIS PRIOR ASSOCIATION WITH ONE OF OIL COMPANIES INVOLVED.

3. MINISTER HERNANDEZ STATED THAT GOV'S PRIMARY INTEREST NOW IS TO MOVE CASE THROUGH THE COURTS AND TO A CONCLUSION AS QUICKLY AS POSSIBLE TO MINIMIZE PERIOD OF UNCERTAINTY FOR ALL CONCERNED. IN HIS VIEW FINAL DECISION IN CASE WILL HAVE TO COME FROM SUPREME COURT. IN THIS REGARD, HE SAID THAT THE TWO MAJOR POLITICAL PARTIES, AD AND COPEI, HAVE AGREED TO FACILITATE THE PROGRESS OF THE CASE THROUGH THE COURT SYSTEM TO ENSURE THAT IT REACHES THE SUPREME COURT AND IS RESOLVED AS SOON AS POSSIBLE. HERNANDEZ SAID THAT WHILE ADMINISTRATION COULD NOT INFLUENCE COURT'S DECISION IN THE CASE, COMPTROLLER'S CLAIM WAS BASED ON WEAK LEGAL GROUNDS. THE CLAIM HAD BEEN CAREFULLY REVIEWED BY VARIOUS ENTITIES OF THE GOV AND EACH HAD DETERMINED THAT CLAIM WAS NOT CORRECT.

4. THE AMBASSADOR REFERRED TO PROBLEM FACING COMPANIES IF THEY REQUIRED TO POST BOND IN THE PROCESS OF LEGAL CHALLENGE OF COMPTROLLER'S CLAIM. HERNANDEZ SAID HE BELIEVED METHOD COULD BE WORKED OUT TO AVOID NEED FOR BOND AS SUCH, SUGGESTING THAT COMPANIES MIGHT BE ABLE TO ACT AS GUARANTORS IN THEIR OWN NAME OR THAT EXISTING GUARANTEE FUND MIGHT BE USED FOR THIS. THE AMBASSADOR REITERATED HOPE THAT COMPANIES WOULD NOT BE REQUIRED TO FURTHER OBLIGATE THEMSELVES IN THE FORM OF AN ADDITIONAL BOND OR GUARANTY.

5. COMMENT-WHILE HERNANDEZ VERY SCRUPULOUSLY INSISTED THAT THE ADMINISTRATION WAS NOT ABLE TO INFLUENCE THE DECISION OF THE COURTS, HE PLACED EVEN GREATER STRESS ON THE WEAK LEGAL BASIS OF THE COMPTROLLER'S CLAIM.

6. EXXON ADVISED EMBASSY IT FILED FORMAL APPEAL IN ACCORD WITH PARA 2 OF REFTTEL ON OCT 7. TO DATE, EXXON, SHELL AND MOBIL DEFINITELY REPORTED TO HAVE RECEIVED NOTICE FROM COMPTROLLER'S OFFICE REJECTING THEIR ORIGINAL PROTEST, BUT AT LEAST SOME OF THE OTHER
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COMPANIES HAVE NOT YET RECEIVED SUCH NOTICE.
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NNN

Message Attributes

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Copy: SINGLE
Draft Date: 13 OCT 1976
Decaption Date: 01 JAN 1960
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Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: coburnhl
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Margaret P. Grafeld
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